

§ 339. Carriage of distant television stations by satellite carriers

(a) Provisions relating to carriage of distant signals

(1) Carriage permitted

(A) In general

Subject to section 119 of title 17, any satellite carrier shall be permitted to provide the signals of no more than two network stations in a single day for each television network to any household not located within the local markets of those network stations.

(B) Additional service

In addition to signals provided under subparagraph (A), any satellite carrier may also provide service under the statutory license of section 122 of title 17, to the local market within which such household is located. The service provided under section 122 of such title may be in addition to the two signals provided under section 119 of such title.

(2) Replacement of distant signals with local signals

Notwithstanding any other provision of paragraph (1), the following rules shall apply after December 8, 2004:

(A) Rules for grandfathered subscribers

(i) For those receiving distant signals

In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station solely by reason of section 119(e)¹ of title 17 (in this subparagraph referred to as a “distant signal”), and who, as of October 1, 2009, is receiving the distant signal of that network station, the following shall apply:

(I) In a case in which the satellite carrier makes available to the subscriber the signal of a local network station affiliated with the same television network pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber—

(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of this title, the subscriber elects to retain the distant signal; but

(bb) only until such time as the subscriber elects to receive such local signal.

(II) Notwithstanding subclause (I), the carrier may not retransmit the distant signal to any subscriber who is eligible to receive the signal of a network station solely by reason of section 119(e)¹ of title 17, unless such carrier, within 60 days after December 8, 2004, submits to that television network the list and statement required by subparagraph (F)(i).

(ii) For those not receiving distant signals

In the case of any subscriber of a satellite carrier who is eligible to receive the

distant signal of a network station solely by reason of section 119(e)¹ of title 17 and who did not receive a distant signal of a station affiliated with the same network on October 1, 2009, the carrier may not provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber.

(B) Rules for other subscribers

(i) In general

In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a “distant signal”), other than subscribers to whom subparagraph (A) applies, the following shall apply:

(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber’s satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338 of this title, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 of this title the signals of stations from the local market of such local network station; and

(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

(ii) Special circumstances

A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.

(C) Future applicability

A satellite carrier may not provide a distant signal (within the meaning of subparagraph (A) or (B)) to a person who—

(i) is not a subscriber lawfully receiving such secondary transmission as of the date

¹ See References in Text note below.

of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 of this title (and the retransmission of such signal by such carrier can reach such subscriber); or

(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.

(D) Special rules for distant signals

(i) Eligibility and signal testing

A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

(III) is in an unserved household, as determined under section 119(d)(10)(A)¹ of title 17.

(ii) Pre-enactment distant signal subscribers

Any eligible subscriber under this subparagraph who is a lawful subscriber to such a distant signal as of the date of enactment of the Satellite Television Extension and Localism Act of 2010 may continue to receive such distant signal.

(iii) Time-shifting prohibited

In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a

local network station pursuant to section 338 of this title, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.

(iv) Savings provision

Nothing in this subparagraph shall be construed to affect a satellite carrier's obligations under section 338 of this title.

(E) Authority to grant station-specific waivers

This paragraph shall not prohibit a retransmission of a distant signal of any distant network station to any subscriber to whom the signal of a local network station affiliated with the same network is available, if and to the extent that such local network station has affirmatively granted a waiver from the requirements of this paragraph to such satellite carrier with respect to retransmission of such distant network station to such subscriber.

(F) Notices to networks of distant signal subscribers

(i) Within 60 days after December 8, 2004, each satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (A) or (B)(i) of this paragraph shall submit to each network—

(I) a list, aggregated by designated market area, identifying each subscriber provided such a signal by—

(aa) name;

(bb) address (street or rural route number, city, State, and zip code); and

(cc) the distant network signal or signals received; and

(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (A) or (B)(i) of this paragraph.

(ii) Within 60 days after the date a satellite carrier commences to carry pursuant to section 338 of this title the signals of stations from a local market, such a satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (B)(ii) of this paragraph shall submit to each network—

(I) a list identifying each subscriber in that local market provided such a signal by—

(aa) name;

(bb) address (street or rural route number, city, State, and zip code); and

(cc) the distant network signal or signals received; and

(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (B)(ii) of this paragraph.

(G) Other provisions not affected

This paragraph shall not affect the eligibility of a subscriber to receive secondary transmissions under section 340 of this title or as an unserved household included under section 119(a)(12)¹ of title 17.

(H) Available defined

For purposes of this paragraph, a satellite carrier makes available a local signal to a subscriber or person if the satellite carrier offers that local signal to other subscribers who reside in the same zip code as that subscriber or person.

(3) Penalty for violation

Any satellite carrier that knowingly and willfully provides the signals of television stations to subscribers in violation of this subsection shall be liable for a forfeiture penalty under section 503 of this title in the amount of \$50,000 for each violation or each day of a continuing violation, except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f) of this title.

(b) Extension of network nonduplication, syndicated exclusivity, and sports blackout to satellite retransmission

(1) Extension of protections

Within 45 days after November 29, 1999, the Commission shall commence a single rulemaking proceeding to establish regulations that—

(A) apply network nonduplication protection (47 CFR 76.92) syndicated exclusivity protection (47 CFR 76.151), and sports blackout protection (47 CFR 76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers to subscribers; and

(B) to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 CFR 76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

(2) Deadline for action

The Commission shall complete all actions necessary to prescribe regulations required by this section so that the regulations shall become effective within 1 year after November 29, 1999.

(c) Eligibility for retransmission

(1) Repealed. Pub. L. 115–141, div. P, title IV, § 402(i)(7), Mar. 23, 2018, 132 Stat. 1090

(2) Waivers

A subscriber who is denied the retransmission of a signal of a network station under section 119 of title 17 may request a waiver from such denial by submitting a request,

through such subscriber's satellite carrier, to the network station asserting that the retransmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. The subscriber shall be permitted to receive such retransmission under section 119(d)(10)(B)¹ of title 17, if such station agrees to the waiver request and files with the satellite carrier a written waiver with respect to that subscriber allowing the subscriber to receive such retransmission. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver.

(3) Establishment of improved predictive model and on-location testing required

(A) Predictive model

Within 270 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

(B) On-location testing

The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 270 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.

(4) Objective verification

(A) In general

If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test ref-

erenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A)¹ of title 17.

(B) Designation of tester and allocation of costs

If the satellite carrier and the network station or stations asserting that the retransmission is prohibited are unable to agree on such a person to conduct the test, the person shall be designated by an independent and neutral entity designated by the Commission by rule. Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test under this paragraph shall be borne by the satellite carrier, if the station's signal meets or exceeds such requisite signal intensity standard, or by the network station, if its signal fails to meet or exceed such standard.

(C) Avoidance of undue burden

Commission regulations prescribed under this paragraph shall seek to avoid any undue burden on any party.

(D) Reduction of verification burdens

Within 1 year after December 8, 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier to whom the retransmission of the signals of local broadcast stations is available under section 338 of this title from such carrier.

(E) Exception

A satellite carrier may refuse to engage in the testing process. If the carrier does so refuse, a subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under section 338 of this title may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with this subparagraph shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a signal.

(5) Definition

Notwithstanding subsection (d)(4), for purposes of paragraphs (2) and (4) of this subsection, the term “satellite carrier” includes a distributor (as defined in section 119(d)(1) of title 17), but only if the satellite distributor's relationship with the subscriber includes billing, collection, service activation, and service deactivation.

(d) Definitions

For the purposes of this section:

(1) Local market

The term “local market” has the meaning given that term under section 122(j) of title 17.

(2) Nationally distributed superstation

The term “nationally distributed superstation” means a television broadcast station, licensed by the Commission, that—

(A) is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

(B) on May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

(C) was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of section 119 of title 17.

(3) Network station

The term “network station” has the meaning given such term under section 119(d) of title 17.

(4) Satellite carrier

The term “satellite carrier” has the meaning given such term under section 119(d) of title 17.

(5) Television network

The term “television network” means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.

(June 19, 1934, ch. 652, title III, § 339, as added Pub. L. 106-113, div. B, § 1000(a)(9) [title I, § 1008(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-534; amended Pub. L. 106-553, § 1(a)(2) [title X, § 1001, formerly § 1008], Dec. 21, 2000, 114 Stat. 2762, 2762A-140, renumbered § 1001, Pub. L. 115-334, title VI, § 6603(3), Dec. 20, 2018, 132 Stat. 4777; Pub. L. 108-447, div. J, title IX [title II, §§ 204, 209], Dec. 8, 2004, 118 Stat. 3416, 3429; Pub. L. 111-175, title II, § 204(b), May 27, 2010, 124 Stat. 1246; Pub. L. 115-141, div. P, title IV, § 402(i)(7), Mar. 23, 2018, 132 Stat. 1090.)

Editorial Notes

REFERENCES IN TEXT

Section 119(e) of title 17, referred to in subsec. (a)(2)(A), was repealed and section 119(f) was redesignated section 119(e) by Pub. L. 116-94, div. P, title XI, § 1102(a)(4), (6), Dec. 20, 2019, 133 Stat. 3203.

The date of enactment of the Satellite Television Extension and Localism Act of 2010, referred to in subsecs.

(a)(2)(B)(ii), (C), (D)(ii), and (c)(3), is the date of enactment of Pub. L. 111-175, which shall be deemed to refer to Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as an Effective Date of 2010 Amendment note under section 111 of Title 17, Copyrights.

Section 119(d)(10) of title 17, referred to in subsecs. (a)(2)(D)(i)(III) and (c)(2), (4)(A), was amended by Pub. L. 116-94, div. P, title XI, § 1102(a)(3)(A), Dec. 20, 2019, 133 Stat. 3202, such that subpars. (A) and (B) were repealed, former subpar. (D) was redesignated (A), and a new subpar. (B) was enacted.

Section 119(a)(12) of title 17, referred to in subsec. (a)(2)(G), was redesignated first as section 119(a)(11) of title 17 by Pub. L. 111-175, title I, § 102(h)(1)(B), May 27, 2010, 124 Stat. 1224, and subsequently as section 119(a)(8) of title 17 by Pub. L. 116-94, div. P, title XI, § 1102(a)(1)(C), Dec. 20, 2019, 133 Stat. 3202.

AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-141 struck out par. (1) which related to study of digital strength testing procedures.

2010—Subsec. (a)(1). Pub. L. 111-175, § 204(b)(1)(A), which directed amendment of subpar. (B) by striking out “‘Such two network stations’ and all that follows through ‘more than two network stations.’”, was executed by striking out concluding provisions which read “‘Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.’”, to reflect the probable intent of Congress.

Subsec. (a)(2)(A). Pub. L. 111-175, § 204(b)(1)(B)(i), struck out “to analog signals” after “subscribers” in heading.

Subsec. (a)(2)(A)(i). Pub. L. 111-175, § 204(b)(1)(B)(ii)(I), struck out “analog” before “signals” in heading, substituted “signal” for “analog signal” wherever appearing, and, in introductory provisions, substituted “October 1, 2009” for “October 1, 2004”.

Subsec. (a)(2)(A)(ii). Pub. L. 111-175, § 204(b)(1)(B)(ii)(III), (IV), struck out “analog” before “signals” in heading, substituted “signal” for “analog signal” wherever appearing in text, and substituted “2009” for “2004”.

Subsec. (a)(2)(B). Pub. L. 111-175, § 204(b)(1)(B)(iii), amended subpar. (B) generally. Prior to amendment, subpar. (B) related to rules for other subscribers to analog signals.

Subsec. (a)(2)(C). Pub. L. 111-175, § 204(b)(1)(B)(iv)(I), which directed striking out “analog”, was executed by striking out “analog” before “signal” in introductory provisions, to reflect the probable intent of Congress and the subsequent amendment of cl. (ii) by Pub. L. 111-175, § 204(b)(1)(B)(iv)(III). See below.

Subsec. (a)(2)(C)(i). Pub. L. 111-175, § 204(b)(1)(B)(iv)(II), substituted “the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 of this title (and the retransmission of such signal by such carrier can reach such subscriber); or” for “December 8, 2004; and”.

Subsec. (a)(2)(C)(ii). Pub. L. 111-175, § 204(b)(1)(B)(iv)(III), amended cl. (ii) generally. Prior to amendment, text read as follows: “at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the analog signal of a local network station affiliated with the same television network pursuant to section 338 of this title, and the retransmission of such signal by such carrier can reach such subscriber.”

Subsec. (a)(2)(D). Pub. L. 111-175, § 204(b)(1)(B)(v)(I), struck out “digital” before “signals” in heading.

Subsec. (a)(2)(D)(i). Pub. L. 111-175, § 204(b)(1)(B)(v)(IV), amended cl. (i) generally. Prior to amendment, cl. (i) related to signal testing for digital signals.

Pub. L. 111-175, § 204(b)(1)(B)(v)(II), (III), redesignated and reordered cl. (vi) as (i) and struck out former cl. (i) which related to eligibility.

Subsec. (a)(2)(D)(ii). Pub. L. 111-175, § 204(b)(1)(B)(v)(V), struck out “digital” before “signal” in heading and in two places in text, struck out “, whether or not such subscriber elects to subscribe to local digital signals” before the period, and substituted “Satellite Television Extension and Localism Act of 2010” for “Satellite Home Viewer Extension and Reauthorization Act of 2004”.

Subsec. (a)(2)(D)(iii). Pub. L. 111-175, § 204(b)(1)(B)(v)(II), (VI), added cl. (iii) and struck out former cl. (iii) which related to local-to-local analog markets.

Subsec. (a)(2)(D)(iv). Pub. L. 111-175, § 204(b)(1)(B)(v)(II), (VII), redesignated cl. (x) as (iv) and struck out former cl. (iv) which related to local-to-local digital markets.

Subsec. (a)(2)(D)(v). Pub. L. 111-175, § 204(b)(1)(B)(v)(II), struck out cl. (v) which related to non-local-to-local markets.

Subsec. (a)(2)(D)(vi). Pub. L. 111-175, § 204(b)(1)(B)(v)(III), redesignated cl. (vi) as (i).

Subsec. (a)(2)(D)(vii) to (ix). Pub. L. 111-175, § 204(b)(1)(B)(v)(II), struck out cls. (vii) to (ix) which related to trigger events for use of testing, testing waivers, and a special waiver provision for translators, respectively.

Subsec. (a)(2)(D)(x). Pub. L. 111-175, § 204(b)(1)(B)(v)(VII), redesignated cl. (x) as (iv).

Subsec. (a)(2)(D)(xi). Pub. L. 111-175, § 204(b)(1)(B)(v)(II), struck out cl. (xi) which defined “emergency response providers”.

Subsec. (a)(2)(E). Pub. L. 111-175, § 204(b)(1)(B)(vi), substituted “distant signal” for “distant analog signal or distant digital signal (within the meaning of subparagraph (A), (B), or (D))”.

Subsec. (c)(3). Pub. L. 111-175, § 204(b)(2)(A), amended par. (3) generally. Prior to amendment, text read as follows: “Within 180 days after November 29, 1999, the Commission shall take all actions necessary, including any reconsideration, to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal intensity standard in effect under section 119(d)(10)(A) of title 17. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98-201 and ensure that such model takes into account terrain, building structures, and other land cover variations. The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.”

Subsec. (c)(4)(A). Pub. L. 111-175, § 204(b)(2)(B), amended subpar. (A) generally. Prior to amendment, text read as follows: “If a subscriber’s request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber’s satellite carrier a request for a test verifying the subscriber’s inability to receive a signal that meets the signal intensity standard in effect under section 119(d)(10)(A) of title 17, the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct a test in accordance with section 73.686(d) of its regulations (47 CFR 73.686(d)), or any successor regulation. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such section (or any successor regulation) demonstrate that the subscriber does not receive a signal that meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, the subscriber shall not be denied the retransmission of a signal of a network station under section 119 of title 17.”

Subsec. (c)(4)(B). Pub. L. 111-175, § 204(b)(2)(C), substituted “such requisite signal intensity standard” for

“the signal intensity standard in effect under section 119(d)(10)(A) of title 17”.

Subsec. (c)(4)(E). Pub. L. 111-175, §204(b)(2)(D), struck out “Grade B intensity” before “signal.”

2004—Subsec. (a)(1). Pub. L. 108-447, §204(a)(1), inserted at end “Such two network stations may be comprised of both the analog signal and digital signal of not more than two network stations.”

Subsec. (a)(2). Pub. L. 108-447, §204(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 108-447, §204(a)(4), which directed amendment of par. (3) by inserting “, except that paragraph (2)(D) of this subsection, relating to the provision of distant digital signals, shall be enforceable under the provisions of section 340(f) of this title” at end, was executed by making the insertion before period at end, to reflect the probable intent of Congress.

Pub. L. 108-447, §204(a)(2), redesignated par. (2) as (3).

Subsec. (c)(1). Pub. L. 108-447, §204(b), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “For the purposes of identifying an unserved household under section 119(d)(10) of title 17, within 1 year after November 29, 1999, the Commission shall conclude an inquiry to evaluate all possible standards and factors for determining eligibility for retransmissions of the signals of network stations, and, if appropriate—

“(A) recommend modifications to the Grade B intensity standard for analog signals set forth in section 73.683(a) of its regulations (47 CFR 73.683(a)), or recommend alternative standards or factors for purposes of determining such eligibility; and

“(B) make a further recommendation relating to an appropriate standard for digital signals.”

Subsec. (c)(4)(D), (E). Pub. L. 108-447, §209, added subpars. (D) and (E).

2000—Subsec. (c)(5). Pub. L. 106-553 added par. (5).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111-175, set out as a note under section 111 of Title 17, Copyrights.

§ 340. Significantly viewed signals permitted to be carried

(a) Significantly viewed stations

In addition to the broadcast signals that subscribers may receive under section¹ 338 and 339 of this title, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal—

(1) has, before December 8, 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission's network nonduplication and syndicated exclusivity rules; or

(2) is, after December 8, 2004, determined by the Commission to be significantly viewed in such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.

¹ So in original. Probably should be “sections”.

(b) Limitations

(1) Service limited to subscribers taking local-into-local service

This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338 of this title.

(2) Service limitations

A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.

(3) Limitation not applicable where no network affiliates

The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.

(4) Authority to grant station-specific waivers

Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph² (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.

(c) Publication and modifications of lists; regulations

(1) In general

The Commission shall—

(A) within 60 days after December 8, 2004—

(i) publish a list of the stations that are eligible for retransmission under subsection (a)(1) and the communities in which such stations are eligible for such retransmission; and

(ii) commence a rulemaking proceeding to implement this section by publication of a notice of proposed rulemaking;

(B) adopt rules pursuant to such rulemaking within 1 year after December 8, 2004.

(2) Public availability of list

The Commission shall make readily available to the public in electronic form, on the Internet website of the Commission or other comparable facility, a list of the stations that are eligible for retransmission under subsection (a) and the communities in which such stations are eligible for such retransmission. The Commission shall update such list within 10 business days after the date on which the

² So in original. Probably should be “paragraphs”.